

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARCIE RISK and
TIMOTHY RISK (H/W),
Plaintiffs,

v.

LM GENERAL INSURANCE COMPANY,
Defendant.

CIVIL ACTION

NO. 23-41

ORDER

AND NOW, this 14th day of March, 2024, upon consideration of Defendant LM General Insurance Company's ("Defendant") Motion to Dismiss (ECF Nos. 13, 13-1, 13-2), Plaintiffs Marcie and Timothy Risk's ("Plaintiffs") Motion to Compel (ECF Nos. 16, 16-1, 16-2, 16-3), and all related responsive briefing to both motions, it is **HEREBY ORDERED AS FOLLOWS:**

1. Defendant's Motion to Dismiss (ECF No. 13) is **DENIED** as to **COUNT I**;
2. Defendant's Motion to Dismiss (ECF No. 13) is **GRANTED** as to **COUNT IV**;
3. Defendant's Motion to Strike (ECF No. 13) is **GRANTED** solely regarding references to a fiduciary duty made in paragraph 37 of the Complaint as incorporated in Counts II and III, and regarding references to attorney's fees made in paragraphs 47 and 50 of the Complaint incorporated into Count II of the Complaint and is **OTHERWISE DENIED**.
4. Plaintiffs' Motion to Compel (ECF No. 16) is **DENIED AS MOOT** and dismissed without prejudice with the right for Plaintiffs to refile, taking into consideration the Court's decision on Defendant's Motion to Dismiss.

BY THE COURT:

/s/ Hon. Kelley B. Hodge

HODGE, KELLEY B., J.